UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, Plaintiff, v. SHAWN SCHAEFER, Defendant.	CASE NO.: 24-cr-00352-CKK Hon. Colleen Kollar-Kotelly **MR. SCHAEFER'S SENTENCING MEMORANDUM**

Shawn Schaefer, by and through his counsel of record, Theodore Torres and Daniela Muehleisen and Federal Defenders of San Diego, Inc. ("Federal Defenders"), hereby files the following sentencing memorandum.

Mr. Schaefer requests a sentence of 24 months' probation on both counts to run concurrently with 30 days of home detention. Per the plea agreement, Mr. Schaefer has agreed to make a $500 restitution payment. He requests no additional fine.

I. A SENTENCE OF PROBATION IS SUFFICIENT TO FULFILL THE GOALS OF SENTENCING.

A. Mr. Schaefer's childhood was marked by his father's affair and his parent's acrimonious divorce, which created a lack of stability for the young Mr. Schaefer.

Mr. Schaefer grew up in a relatively middle-class community with his father, mother, and sister for the first fifteen years of his life. Everything changed when his parents divorced. Mr. Schaefer's father had cheated on his mother, which was painful news for the entire family. His only sibling – his sister – was only about six years old at the time. This meant that the fifteen-year-old Mr. Schaefer had to navigate the complex emotions and disputes between his parents on his own. As his parents would scream at

each other, Mr. Schaefer would try to put in headphones and play rock music to drown out their fights. Mr. Schaefer remembers how their court battle was just as ugly.

After the divorce, the family dynamics became even more difficult. Mr. Schaefer ended up living with his father, and his sister lived with their mother. For years, Mr. Schaefer's mother and sister were distant from him, and his mother held a grudge against him for living with his father.

At the same time, Mr. Schaefer's economic situation worsened. His father rented apartment after apartment, and Mr. Schaefer moved to different schools and communities each time. In total, Mr. Schaefer attended four different high schools. He was unable to form stable roots, and he longed to form a friend group to support him through the emotional turmoil.

Despite this turmoil, Mr. Schaefer managed to graduate high school and eventually received a college degree. He attended San Antonio Community College for two years. In 1994, he graduated from the University of Texas at San Antonio with a bachelor's degree in marketing. Presentence Report (hereinafter "PSR") at ¶ 59.

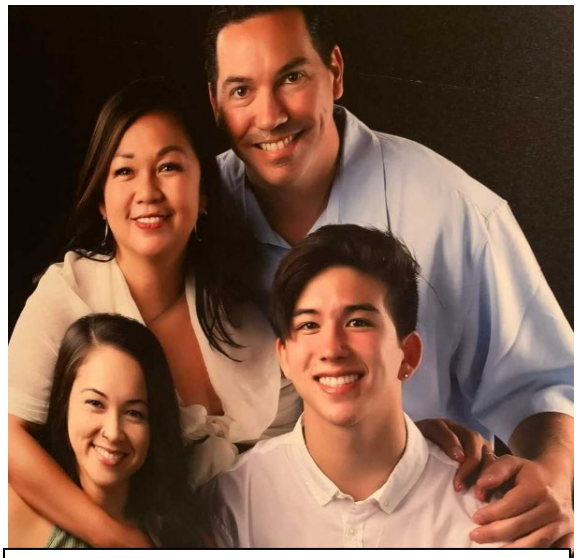
B. Mr. Schaefer is a caring and devoted father and husband, and he enjoys strong family support.

In 2000, Mr. Schaefer met his wife, Evelina. They have been together for nearly twenty-five years now. Evelina had two children from a previous marriage, though the children's father was not involved in their lives. Mr. Schaefer became a father-figure to them, and in 2004, he legally adopted both Evelina's son and daughter. PSR at ¶ 45. Their daughter continues to reside with Mr. Schaefer and his wife. Their son just had his first child—Mr. Schaefer's first grandchild.

Mr. Schaefer has devoted himself to his family for nearly three decades to provide his wife and children with a strong family and sense of community that he himself lacked while growing up. Mr. Schaefer's daughter writes how Mr. Schaefer supports the family and "is always there for [his wife] when she is stressed from work

or during family matters. He shows gratitude when good things happen for me and my brother. He truly cares about the achievements and little things that happen in our lives." Ex. A.

His family is aware of this case and continues to support him. His grandchild was born recently, and Mr. Schaefer wants to be able to be as present as possible in his grandchild's life.



Mr. Schaefer and his family.

C. Mr. Schaefer committed this offense at the peak of his depression, after having been laid off and struggling to find employment for nearly three years.

Two and a half years prior to this offense, Mr. Schaefer was laid off. During that time, he struggled to regain employment. When he was finally about to get back on his feet, the COVID-19 pandemic began, and Mr. Schaefer's opportunities were closed off to him once again. He felt hopeless, desperate, and alone. He stopped looking for work because he felt that he would never find a job again, and his relationship with his wife started to falter.

Mr. Schaefer, who had never been a daily drinker, started to slip into alcoholism. He used to see himself as an over-achiever with a home and a great job and great family. But for those years prior to committing this offense, he was drinking every day. Eventually, Mr. Schaefer developed an ulcer in his stomach. He had to get outpatient surgery. "After some self-reflection and realization, [he] decided he did not like the person he had become and stopped drinking. He was able to stop drinking on his own and found support at the Calvary Chapel Church." PSR at ¶ 56.

The year after the commission of his offense, Mr. Schaefer turned his life around. He joined a men's group in his church, found community, found stable employment,

and bettered his relationship with his wife. When he committed this offense, he was at the lowest point in his life, and he deeply regrets it.

D. Throughout this case, Mr. Schaefer has accepted responsibility for actions and shown regret for his participation in this offense.

Mr. Schaefer adopts the factual basis in the plea agreement and the statement of the offense. He was inside of the Capitol for less than two minutes and turned around after being directed to leave by police officers. He did not—and would never—engage in violence.

The Government claims that Mr. Schaefer does not express remorse based on a statement made during his arrest by the Marshals Service, where Mr. Schaefer stated that "law-abiding" citizens were being arrested. Mr. Schaefer, of course, did not actually resist arrest or deny culpability in the offense. He instead cooperated fully with law enforcement at every step. His "law-abiding citizens" remark was not intended to minimize the gravity of his crime—he was instead distraught at what he perceived as an unnecessary show of force against him at the time of his arrest given how cooperative he had been until that point.

And make no mistake: Mr. Schaefer does regret his actions. From his very first meeting with defense counsel, Mr. Schaefer expressed his clear intent to take responsibility for his actions on January 6th. Accordingly, he pleaded guilty to the Government's first offer. ECF No. 25. He has been forthright about his involvement with the government and with the FBI. He made clear during his pre-sentence interview that "in retrospect […] he was thinking irrationally in 2021 and if the rally were to be held now he would never think to go." PSR at ¶ 28. This is corroborated by the fact that Mr. Schaefer has cut ties with groups and organizations related to this offense. He has not looked at or opened the California Patriots Telegram channel in years. He is not in any QAnon groups.

In his statements to defense counsel regarding this offense, Mr. Schaefer

admitted that he was seeking a solution from the desperation and loneliness that had sent him spiraling into alcoholism and depression. He understands and has stated how "I was looking for an excuse other than myself to deal with my problems." Mr. Schaefer hit rock bottom. He regrets his actions and letting himself get to the point that he agreed to be in this situation rather than getting the help that he needed.

Mr. Schaefer, his wife, and their grandchild.

Outside of this case, Mr. Schaefer has grown closer to his faith, focused on maintaining his position at work, and now, he is eager to become a supportive grandfather to his first grandchild. In her letter of support, Mr. Schaefer's adopted daughter writes, "I know he regrets all that has happened since then but it has been a good learning experience and knows that God only gives you what you can handle and for a good reason." *See* Ex. A. Likewise, his wife writes how Mr. Schaefer has tried to turn his life around since this case, becoming a "more responsible parent and closer to family and his faith." *See* Ex. B.

E. A noncustodial sentence for Mr. Schaefer would not result in an unwarranted sentencing disparity.

The government argues that Mr. Schaefer needs jail time in part based on sentences handed down to Ruben Reyna, 23-CR-00350-CKK, and Thomas Uberto, 22-CR-00007-TSC (14 days and 10 days, respectively). To do otherwise, the government argues, would create an unwarranted sentencing disparity under § 3553(a).

To be sure, there are surface-level similarities between these two cases and Mr. Schaefer's case. Both Reyna and Uberto entered the Capitol without violence and

voluntarily left the grounds after a few minutes. Reyna had no criminal history and Uberto's criminal history was quite dated.

But both Reyna and Uberto had aggravating circumstances not present here. For instance, both men entered the Capitol more forcibly than Mr. Schaefer—Reyna climbed through a shattered window to breach the Capitol and Uberto pushed through the crowd inside the Senate Wing Door. And both Reyna and Uberto made statements after January 6th in which they appeared to express pride at their involvement in the riot.[1]

By contrast, Mr. Schaefer did not climb through a window and did not push through a crowd into the Capitol. And Mr. Schaefer was never proud of his role in January 6th, nor did he deflect blame onto police or imaginary Antifa undercovers. He instead cut ties completely with that world. He was embarrassed and ashamed of his actions from day one.

In light of these facts, a probationary sentence would not create an unwarranted sentencing disparity. To the contrary, Mr. Schaefer is similarly positioned to several defendants who received noncustodial sentences from this Court:

- Jon Lizak, 23-CR-00163-CKK
- Kenneth Kelly, 21-CR-00331-CKK
- Michael Orangias, 21-CR-00265-CKK
- Karegan and Willard Bostic, 21-CR-00643-CKK
- Meghan Rutledge, 21-CR-00643-CKK
- Cole Andrew Temple, 22-CR-00243-CKK

[1] Reyna appeared to blame the Capitol Police themselves and imaginary undercover Antifa activists for the events of January 6th. 23-cr-00350-CKK, ECF No. 25 at 7–8. At other times, he took personal pride in storming the Capitol, telling an acquaintance that it was "an honor" to represent them on January 6th. *Id.* Uberto sent messages months after January 6th continuing to claim that the 2020 election was "rigged." 22-CR-00007-TSC, ECF No. 36 at 8.

II. CONCLUSION

Mr. Schaefer's history and characteristics, lack of criminal history, and success while out on bond during the pendency of this case, as well as the other factors enumerated in § 3553(a), weigh in favor of a sentence of twenty-four months of probation with thirty days of home detention. The defense maintains that this sentence is sufficient, but not greater than necessary, in Mr. Schaefer's case.

Respectfully submitted,

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/s/ Theo Torres
Theo Torres, Trial Attorney

/s/ Daniela Muehleisen
Daniela Muehleisen, Trial Attorney

EXHIBIT A

Date: 1/7/2025

From:
Evelina Schaefer
[redacted]

Re: Shawn Schaefer

Your Honor:

I met Shawn Schaefer thru online in March 4, 2001. I was a single mom with 2 kids ages 4 1/2 and 9 1/2 years old. We had long distance relationships for couple years then he decided to proposed for marriage in Dec 2003. Our life change when Shawn came into our life. He moved to California with open arms.

Shawn is my sunshine in life. He petitioned the kids and helped me raised my kids to be a better person and good citizen. He did all the father duties such as: taking them to school, practice on weekly games, doctor's appointment, camping and field trips etc. We volunteered for chaperone on their church retreats. He does get along with all my siblings and families. He is very easy-going person. He became a Dad instantaneous and accepted the full responsibilities. The kids really respected him, they can feel the true love he has for them raising them. Shawn is true to himself.

I've seen Shawn since the event he become more responsible parent and closer to family and his faith to almighty God. He has fully dedicated his time to his work and family. And always communicated with family. He is very pleased that our kids grew up with good belief in God. Our son is doing good on his job and they just recently had a baby boy. We are so excited for this additional to our family. He is always so thankful that he has a job and that his boss and him gets along. He just wants simple and peaceful life.

Respectfully:

Evelina Schaefer

January 8,2025

Briana Schaefer
[redacted]

Re: Shawn Schaefer

Dear Your Honor,

I am Briana Schaefer, Shawn Schaefer's daughter. I have known my dad since before I was ten years old. He came into our lives when my mom was a single mom. He loved her so much that he decided to bring us into his life and be our dad. He later adopted my brother and I when I was a junior in high school. Our relationship has grown through the years, becoming closer and stronger as time goes by. My dad has been a good role model, teaching us values in life and also teaching us indirectly through his life about how to deal with life's struggles and challenges. He gives good advice when asked and has shown how his faith has grown especially in the more recent years as the world has made its changes.

My dad is a great husband, he is very loving towards my mom. He shows affection to her in their own special way and you can feel he really loves her. He supports her and is always there for her when she is stressed from work or during family matters. He shows gratitude when good things happen for me and my brother. He truly cares about the achievements and little things that happen in our lives.

He was out of work for a few years because he wasn't able to find the position he wanted and he also was dealing with depression. He recently has gotten a new job and seems to really enjoy it. He is needed and valued there and is able to use his talents. He seems much happier being able to have a routine and being able to provide for the family as well.

I believe my dad is a good person who was at the wrong place and wrong time. I know he regrets all that has happened since then but it has been a good learning experience and knows that God only gives you what you can handle and for a good reason. I hope good results will come in and you will see the good man that he is.

Thank you,

Briana Schaefer